



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1130/2 3

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DOA:.....Bong, BB0350 - Sale or lease of state-owned real property

stays

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

do NOT go

- 1 AN ACT ...; relating to: sale or lease of state-owned real property, contractual
- 2 operation of state facilities, and management of state-owned heating, cooling,
- 3 and power plants.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, with certain exceptions, DOA may sell or lease state-owned real property if DOA determines that the sale is in the best interest of the state and the Building Commission approves the sale. Any sale may be either on the basis of public bids, with DOA reserving the right to reject any bid in the interest of the state, or negotiated prices and need not reflect fair market value. Also currently, various state agencies have authority to sell real property under their jurisdiction subject to various conditions and limitations. The proceeds of any sales are deposited, credited, or used in various ways as provided by law. DOA's authority generally does not apply to property that another agency has authority to sell. Also, DOA's authority does not operate to permit the closure or sale of any facility or institution the operation of which is required by law. DOA's authority also does not extend to property under the jurisdiction of the Board of Regents of the University of Wisconsin System and certain property under the jurisdiction of DHS at the Northern Center for the Developmentally Disabled. Except as otherwise provided by law, any sale by DOA

may be with or without the approval of the state agency that has jurisdiction over the property. The net proceeds of any sale by DOA are used to retire any outstanding public debt that was incurred to acquire, construct, or improve the property and if the property was acquired, constructed, or improved with federal financial assistance, the proceeds must be used to repay the federal government to the extent required by federal law. If the property was acquired by gift or grant or with gift or grant funds, DOA must adhere to any restriction governing use of the proceeds. DOA must use any remaining net proceeds to retire other outstanding public debt.

Currently, with certain exceptions, the Building Commission may also sell state-owned real property where this authority is not given to another state agency by law, and may transfer land under its jurisdiction among agencies. Sales may be accomplished in a manner similar to the manner that sales are conducted by DOA, except that sales of surplus land having a value of at least \$20,000 are subject to the approval of JCF. However, the Building Commission does not have the authority to sell a parcel of state-owned real property once DOA notifies the commission that an offer of sale or sale with respect to the parcel is pending. If a sale is not completed and no further action is pending with respect to a parcel of property, the authority of the Building Commission to sell the property is restored. The net proceeds of any sales by the Building Commission must be used to retire any public debt that was used to acquire or construct improvements on the property being sold. The remaining net proceeds must be deposited in the budget stabilization fund. Current law also directs the Building Commission to compile biennially and transmit to JCF an inventory of state-owned surplus land.

This bill permits DOA or the Building Commission to sell or lease any state-owned real property unless prohibited by the state or federal constitution or federal law, subject to the approval of the Building Commission. Under the bill, any sale may be either on the basis of ~~a competitive bidding process~~, with DOA or the commission reserving the right to reject any bid in the interest of the state, or ~~through prices negotiated by an independent third party in the best interest of the state~~. The bill does not apply to sales conducted to enforce an obligation to this state. The bill retains most of the existing exemptions from DOA's sales authority but eliminates the current exemption of the Board of Regents of the University of Wisconsin System and DHS (with respect to the Northern Center) to sell or lease state-owned real property independently of DOA. Under the bill, if DOA or the Building Commission notifies the Board of Regents or DHS that an offer of sale, sale, or lease is pending with the respect to a parcel of property, the Board of Regents or DHS does not have authority to sell or lease that property. The bill eliminates the current exception that exempts sales that would necessitate the closure of a facility or institution which is provided for by law. However, the bill does not repeal any statutes that require the operation of any facilities or institutions. Under the bill, if DOA or the Building Commission sells all the real property that is currently used to operate a facility or institution, the facility or institution would need to continue in operation. Under the bill, except with respect to exempt property, if any agency has authority to sell or lease real property under any other law, the authority of that agency does not apply after DOA or the Building Commission notifies the agency in

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writing that an offer of sale or lease, or a lease agreement, is pending with respect to the property. If the sale or lease is not completed and no further action is pending with respect to the property, the authority of the agency to sell or lease the property is restored. Under the bill, DOA and the Building Commission must first use the net proceeds of any sale to retire any public debt that was used to finance the acquisition, construction, or improvement of the property that is sold. Thereafter, DOA and the Building Commission must use the net proceeds of any sale to pay the costs of federal tax law compliance applicable to the debt. Thereafter, DOA and the Building Commission must use the remaining net proceeds of any sale, subject to current requirements, to retire any revenue obligation debt in the fund that was used to acquire, construct, or improve property that was sold, and after any such debt is retired, to retire any public debt incurred for transportation purposes from general fund supported borrowing and after any such debt is retired, to retire any public debt incurred for transportation purposes from segregated fund or segregated revenue supported borrowing and after any such debt is retired, to retire other outstanding public debt. The bill provides that if any property that is proposed to be sold by DOA is co-owned by a nonstate entity, DOA must afford to the co-owner the right of first refusal to purchase the share of the property owned by the state on reasonable financial terms established by DOA. STET

The bill also provides that if DOA leases a state-owned heating, cooling, or power plant, DOA may contract for the operation of any function that is performed by the state on the property. Currently, DOA or any state agency to which DOA delegates authority may enter into a contractual services agreement if the services can be performed more economically or efficiently by contract than by the state directly. The bill provides that this requirement does not apply to contracts with lessees entered into by DOA under the bill. The bill provides that if DOA sells, leases, ~~or contracts with a lessor for the operation of~~ any real property that was under the jurisdiction of the Board of Regents of the University of Wisconsin System prior to the sale, lease, ~~or contract~~, the Board must convey all systems, fixtures, or additional property interests specified by DOA to the purchaser or lessor of the property on the terms specified by DOA. In addition, the bill provides that if DOA sells or contracts with a lessee for the operation of any facility that is operated by a state agency before the effective date of the sale or contract, DOA may decrease the authorized full-time equivalent positions for the agency and may lapse or transfer appropriated moneys from any appropriation made to the agency, other than a sum sufficient appropriation or an appropriation of federal revenues, to account for discontinuance of the operation of the facility by the agency. or the Building Commission

In addition, the bill provides that if DOA sells or leases state-owned property to a public utility or contracts with a public utility for operation of a function on state-owned property that DOA leases to the public utility, the bill exempts the purchase, lease, or contract from requirements that may apply under current law for the Public Service Commission (PSC) to approve the purchase, lease, or contract. The bill also provides that such a purchase, lease, or contract is considered to be in the public interest and to comply with criteria for PSC certification that may apply under current law. or the Building Commission

Finally, the bill modifies the authority of the Building Commission to sell or lease state-owned buildings, structures, and land to parallel the authority of DOA under the bill so that the authority includes property under the jurisdiction of the Board of Regents of the University of Wisconsin System and is not generally limited by sales authority given to state agencies, and so that distribution of sales proceeds is accomplished in the same manner as proceeds of DOA's sales are distributed. The bill deletes the current limitation that certain sales of surplus land are subject to approval of JCF. The bill directs each state agency, no later than January 1, 2014, and biennially thereafter, to submit to DOA an inventory of all real property under its jurisdiction together with the estimated fair market value of each property. Each agency must specifically identify any underutilized assets in the inventory. Under the bill, no later than July 1 following receipt of the inventories, DOA must obtain appraisals of all properties in the inventory that are identified by DOA for potential sale and submit to the Building Commission an inventory containing a location, description, and fair market value of each property identified for potential sale.

Currently, DOA has charge of, operates, and maintains the state capitol power plant and any power plants serving the state office buildings. Under the bill, DOA has charge of, operates, and maintains any heating, cooling, and power plants not operated by another agency or by a purchaser, lessee, or contractor.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.48 (2) (b) 3. of the statutes is amended to read:

2 13.48 (2) (b) 3. The Except as provided in sub. (14) (am), the building
3 commission may lease space in buildings described under subd. 2. to other
4 governmental bodies or to nonprofit associations organized for public purposes and
5 shall charge those bodies or associations an annual rental which shall be not less
6 than the cost of operating, maintaining and amortizing the construction cost of the
7 leased space.

8 **SECTION 2.** 13.48 (14) (title) of the statutes is amended to read:

9 13.48 (14) (title) SALE OR LEASE OF LANDS PROPERTY.

10 **SECTION 3.** 13.48 (14) (a) of the statutes is amended to read:

1 13.48 (14) (a) In this subsection, "agency" has the meaning given for "state
2 agency" in s. 20.001 (1), ~~except that the term does not include the Board of Regents~~
3 ~~of the University of Wisconsin System in s. 16.52 (7).~~

4 **SECTION 4.** 13.48 (14) (am) of the statutes is amended to read:

5 13.48 (14) (am) Except as provided in this paragraph ~~and subject to par. (d),~~
6 the building commission shall have the authority to sell or lease all or any part of
7 ~~a state-owned building or structure or state-owned land, including farmland, where~~
8 ~~such authority is not otherwise provided to an agency by law~~ real property unless the
9 sale or lease is prohibited under the state or federal constitution or federal law or the
10 sale is conducted as a part of a procedure to enforce an obligation to this state, and
11 may transfer land real property under its jurisdiction among agencies. The building
12 commission does not have the authority to sell or lease any state-owned real
13 property under this paragraph after the department of administration notifies the
14 commission in writing that an offer of sale or sale or lease agreement with respect
15 to a property is pending under s. 16.848 (1). If the sale or lease is not completed and
16 no further action is pending with respect to the property, the authority of the building
17 commission under this paragraph is restored. Except with respect to property
18 identified in s. 16.848 (2), if any agency has authority to sell or lease real property
19 under any other law, the authority of that agency does not apply after the commission
20 notifies the agency in writing that an offer of sale or sale, or a lease agreement, is
21 pending with respect to the property under this paragraph. If the sale or lease is not
22 completed and no further action is pending with respect to the property, the authority
23 of the agency to sell or lease the property is restored. This paragraph does not apply
24 to real property that is exempted from sale or lease by the department of
25 administration under s. 16.848.

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1 SECTION 5. 13.48 (14) (b) of the statutes is amended to read:

2 13.48 (14) (b) Subject to par. (d), the The building commission shall sell or lease
3 on the basis of either public bids ~~a competitive bidding process~~, with the building
4 commission reserving the right to reject any or all bids in the best interest of the
5 state, on the basis of ~~or negotiated through~~ prices as determined through a competitive or
~~negotiated by an independent 3rd party in the~~ transparent
6 ~~best interest of the state.~~ Buildings, structures and land mentioned in this process
7 subsection shall be subject to general property taxes levied by those taxing bodies
8 within whose area they lie if used for commercial purposes, and shall be subject to
9 special assessments for public improvements in the same manner and to the same
10 extent as privately owned ~~buildings, structures and land~~ real property, subject to
11 approval of the building commission when required under s. 66.0703 (6).
12

13 SECTION 6. 13.48 (14) (c) of the statutes is renumbered 13.48 (14) (c) (intro.) and
14 amended to read: if

15 13.48 (14) (c) (intro.) Except as provided in par. (e) if
16 there is any outstanding public debt used to finance the
17 acquisition of a building, structure or land or the construction or improvement of a
18 building or structure that is sold or leased under par. (b) (am), the building
19 commission shall deposit a sufficient amount of the net proceeds from the sale or
20 lease of the building, structure or land in the bond security and redemption fund
21 under s. 18.09 to repay the principal and pay the interest on the debt, and any
22 premium due upon refunding any of that debt. Except as provided in s. 51.06 (6), if,
23 and to provide a sufficient amount for the costs of maintaining federal tax law
24 compliance applicable to the debt. If the property was acquired, constructed, or
25 improved with federal financial assistance, the commission shall pay to the federal
government any of the proceeds required by federal law. If the property was acquired
by gift or grant or with gift or grant funds, the commission shall adhere to any

1 restriction governing use of the proceeds. If there is no such debt outstanding, or,
2 there are no monies payable to the federal government, and there is no restriction
3 governing use of the process, and if the net proceeds exceed the amount required to
4 repay that principal and pay that interest and premium be deposited, paid, or used
5 for another purpose under this paragraph, the building commission shall deposit
6 first use the net proceeds or remaining net proceeds in the budget stabilization fund.
7 from the sale to retire any revenue obligation debt in the fund that was used to
8 acquire, construct, or improve the property in the manner provided in par. (cm), shall
9 then use the process or the remaining net proceeds to pay principal and interest costs
10 on outstanding public debt that was used for transportation purposes from general
11 fund supported borrowing, shall then use the net proceeds or remaining net proceeds
12 to pay principal and interest costs on outstanding public debt that was used for
13 transportation purposes from segregated fund or segregated revenue supported
14 borrowing, and shall then use the net proceeds or remaining net proceeds to pay
15 principal and interest costs on other outstanding public debt. For the purpose of
16 paying principal and interest costs on other outstanding public debt under this
17 paragraph, the commission may cause outstanding bonds to be called for redemption
18 on or following their optional redemption date, establish one or more escrow accounts
19 to redeem bonds at their optional redemption date, or purchase bonds in the open
20 market. To the extent practical, the commission shall consider all of the following
21 in determining which public debt to redeem:

22 **SECTION 7.** 13.48 (14) (c) 1. to 4. of the statutes are created to read:

23 13.48 (14) (c) 1. According preference to the redemption of general obligation
24 debt within the same statutory bond purpose that was used to acquire, build, or
25 improve the property being sold.

1 2. The extent to which general obligation debt that was issued to acquire, build,
2 or improve the property being sold is subject to current optional redemption, would
3 require establishment of an escrow, or could be assigned for accounting purposes to
4 another statutory bond purpose.

5 3. The fiscal benefit of redeeming outstanding debt with higher interest costs.

6 4. The costs of maintaining federal tax law compliance in the selection of
7 general obligation debt to be redeemed.

8 **SECTION 8.** 13.48 (14) (cm) of the statutes is created to read:

9 13.48 (14) (cm) If there are any outstanding revenue obligations, issued
10 pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or
11 improvement of any property that is sold under par. (am), the commission shall
12 deposit a sufficient amount of the net proceeds from the sale of the property in the
13 respective redemption fund provided under s. 18.561 (5) or 18.562 (3) to repay the
14 principal and pay the interest on the revenue obligations, and any premium due upon
15 refunding any of the revenue obligations, and to provide a sufficient amount for the
16 costs of maintaining federal tax law compliance applicable to the revenue
17 obligations. For the purpose of paying principal and interest costs on other
18 outstanding revenue obligations, the commission may cause outstanding revenue
19 obligations to be called for redemption on or following their optional redemption
20 date, establish one or more escrow accounts to redeem obligations at their optional
21 redemption date, or purchase bonds on the open market.

22 **SECTION 9.** 13.48 (14) (d) 1. of the statutes is repealed.

23 **SECTION 10.** 13.48 (14) (d) 2. of the statutes is renumbered 13.48 (14) (d) and
24 amended to read:

1 13.48 (14) (d) Biennially, beginning on January 1, 1984, ~~each agency having~~
2 surplus land 2014, each agency shall submit to the department of administration an
3 inventory of all real property under its jurisdiction together with the estimated fair
4 market value of each property. The agency shall specifically identify any under
5 utilized assets in the inventory. No later than July 1 following receipt of the
6 inventories, the department of administration shall obtain appraisals of all
7 properties in the inventories that are identified by the department for potential sale
8 and shall submit to the building commission and the joint committee on finance an
9 inventory containing the location, description and fair market value of each parcel
10 of surplus land property identified for potential sale.

11 **SECTION 11.** 13.48 (14) (d) 3. of the statutes is repealed.

12 **SECTION 12.** 13.48 (14) (d) 4. of the statutes is repealed.

X 13 ~~**SECTION 13.** 13.48 (14) (e) of the statutes is repealed.~~

14 **SECTION 14.** 13.48 (20) of the statutes is amended to read:

15 13.48 (20) RESIDENCE HALLS. The Except as provided in sub. (14) (am), the
16 building commission may approve the sale or lease of state-owned residence halls
17 by the board of regents of the University of Wisconsin System to another state agency
18 or a nonstate nonprofit agency for purposes provided in s. 36.11 (1) (e).

19 **SECTION 15.** 13.48 (22) of the statutes is amended to read:

20 13.48 (22) SALE OR LEASE OF CAPITOL AREA LANDS. The building commission may
21 lease or resell lands acquired in the capitol planning area for public or private
22 redevelopment and may set such conditions of sale or lease as it deems necessary to
23 ensure development compatible with the needs of the community and the state. This
24 subsection does not apply to lands that are authorized to be sold or leased under s.

1 16.848 while an offer of sale, sale, or lease agreement is pending or while the lands
2 are leased.

3 **SECTION 16.** 13.48 (23) of the statutes is amended to read:

4 13.48 (23) LEASE OF SPACE FOR COMMERCIAL USE. ~~The~~ Except as provided in sub.
5 (14) (am), the building commission may lease space in state office buildings for
6 commercial use, including without limitation because of enumeration, retail, service
7 and office uses. In doing so the building commission shall consider the cost and fair
8 market value of the space as well as the desirability of the proposed use. Such leases
9 may be negotiated or awarded by competitive bid procedures. All such leases of space
10 in state office buildings shall provide for payments in lieu of property taxes.

11 **SECTION 17.** 13.482 (2) (a) of the statutes is amended to read:

12 13.482 (2) (a) For the purpose of providing housing for state departments and
13 agencies, including housing for state offices and the completion of the state office
14 building, and to enable the construction, financing and ultimate acquisition thereof
15 by the state, the building commission may acquire any necessary lands, and, subject
16 to s. 13.48 (14) (am), lease and re-lease any lands owned by the state and available
17 for the purpose to the Wisconsin State Public Building Corporation or other nonstock
18 corporation organized under ch. 181 that is a nonprofit corporation, as defined in s.
19 181.0103 (17). The lease and re-lease shall be for a term or terms not exceeding 50
20 years each and shall be made on the condition that such corporation shall construct
21 and provide on such leased lands such building projects, including buildings,
22 improvements, facilities or equipment or other capital items, as the building
23 commission requires, and shall re-lease the same to the building commission upon
24 satisfactory terms as to the rental, maintenance and ultimate acquisition by the
25 state as is in its best interests in the judgment of the building commission. After such

1 leases and re-leases are executed and until the projects are acquired by the state,
2 they shall be operated by the building commission through the department of
3 administration, which shall have charge of such property as provided in ss. 16.85 and
4 16.8511. The building commission shall operate the projects in such manner as to
5 provide revenues therefrom sufficient to pay the costs of operation and maintenance
6 of the project and to provide for the payments due the Wisconsin State Public
7 Building Corporation or other nonstock, nonprofit corporation but if the building
8 commission finds and declares that the housing available in any such project is in
9 excess of the current housing needs or requirements of the state departments and
10 agencies occupying or availing themselves of the space in or capacity of such project,
11 the building commission need not operate such project in a manner to provide
12 revenues therefrom sufficient to pay the costs of operation and maintenance of the
13 project and to provide for the rental payments due the Wisconsin State Public
14 Building Corporation or other nonstock, nonprofit corporation.

15 **SECTION 18.** 13.488 (1) (a) of the statutes is amended to read:

16 13.488 (1) (a) Without limitation by reason of any other statutes except s. 13.48
17 (14) (am), the power to sell and to convey title in fee simple to a nonprofit-sharing
18 corporation any land and any existing buildings thereon owned by the state for such
19 consideration and upon such terms and conditions as in the judgment of the building
20 commission are in the public interest.

21 **SECTION 19.** 13.488 (1) (b) of the statutes is amended to read:

22 13.488 (1) (b) The Except as provided in s. 13.48 (14) (am), the power to lease
23 to a nonprofit-sharing corporation for terms not exceeding 50 years each any land
24 and existing buildings thereon owned by the state upon such terms, conditions and
25 rentals as in the judgment of the building commission are in the public interest.

1 **SECTION 20.** 16.310 (5) of the statutes is amended to read:

2 16.310 (5) NONAPPLICATION. This section does not apply to property that is
3 authorized to be sold ~~under or leased or~~ property that is operated under contract as
4 provided in s. 16.848 while an offer of sale, sale, or lease agreement is pending or
5 while the property is leased or under contractual operation.

6 **SECTION 21.** 16.705 (1) of the statutes is amended to read:

7 16.705 (1) The Except as otherwise provided in this section, the department
8 or its agents may contract for services which can be performed more economically or
9 efficiently by such contract. The department shall, by rule, prescribe uniform
10 procedures for determining whether services are appropriate for contracting under
11 this subsection.

12 **SECTION 22.** 16.705 (1e) of the statutes is created to read:

13 16.705 (1e) Subsection (1) does not apply to contracts entered into by the
14 department under s. 16.848 (1).

15 **SECTION 23.** 16.84 (1) of the statutes is amended to read:

16 16.84 (1) Have charge of, operate, maintain and keep in repair the state capitol
17 building, the executive residence, ~~the light, heat and power plant, any heating,~~
18 cooling, and power plants serving state properties that are not operated by an agency,
19 as defined in s. 16.52 (7), or by a purchaser, lessee, or contractor under s. 13.48 (14)
20 or 16.848 (1), the state office buildings and their power plants, the grounds connected
21 therewith, and such other state properties as are designated by law. All costs of such
22 operation and maintenance shall be paid from the appropriations under s. 20.505 (5)
23 (ka) and (kb), except for debt service costs paid under s. 20.866 (1) (u). The
24 department shall transfer moneys from the appropriation under s. 20.505 (5) (ka) to
25 the appropriation account under s. 20.505 (5) (kc) sufficient to make principal and

1 interest payments on state facilities and payments to the United States under s.
2 13.488 (1) (m).

3 SECTION 24. 16.848 (title) of the statutes is amended to read:

4 16.848 (title) Sale, lease, or contractual operation of certain state
5 property or facilities.

6 SECTION 25. 16.848 (1) of the statutes is amended to read:

7 16.848 (1) Except as provided in sub. (2), the department may offer for sale or
8 lease any state-owned real property, if the department determines that the sale or
9 lease is in the best interest of the state, unless prohibited under the state or federal
10 constitution or federal law or the sale is conducted as a part of a procedure to enforce
11 an obligation to this state. Any sale may be either on the basis of public bids ^{NO}
12 ~~competitive bidding process~~ ^{STRIKE} with the department reserving the right to reject any

13 ^{best} bid in the interest of the state, or ^{on the basis of} ~~negotiated through~~ prices ~~negotiated by an~~
14 ~~as determined through a competitive or transparent process~~
15 ~~independent 3rd party in the best interest of the state.~~ If the department receives

16 an offer to purchase property offered under this subsection, the department may
17 submit a report to the building commission recommending acceptance of the offer.

18 The report shall contain a description of the property and the reasons for the
19 recommendation. The department may recommend the sale of a ~~parcel of~~ property

20 with or without the approval of the agency, as defined in s. 16.52 (7), having
21 jurisdiction of the property. If the building commission approves the proposed sale,

22 the department may sell the property. Except with respect to property identified in
23 sub. (2), if any agency, as defined in s. 16.52 (7), has authority to sell or lease real

24 property under any other law, the authority of that agency does not apply after the
25 department notifies the agency in writing that an offer of sale or sale, or a lease

agreement, is pending with respect to the property under this subsection. If the sale

or lease is not completed and no further action is pending with respect to the property, the authority of the agency to sell or lease the property is restored. If the department sells or leases any state-owned real property under this subsection, the department may attach such conditions to the sale or lease as it finds to be necessary or appropriate to carry out the sale or lease in the best interest of the state. If the department leases a state-owned heating, cooling, or power plant under this subsection, the department may contract with the lessee for the operation of the

plant. Notwithstanding ss. 196.49 and 196.80, if the department sells or leases a state-owned heating, cooling, or power plant under this subsection to a public utility, as defined in s. 196.01 (5), no approval or certification of the public service commission is necessary for the public utility to purchase or lease the plant, or contract for operation of any function performed by the state at a plant that is leased to the public utility under this subsection, and any such purchase, lease, or contract is considered to be in the public interest and to comply with the criteria for certification of a project under s. 196.49 (3) (b).

SECTION 26. 16.848^(1s) of the statutes is created to read:

16.848^{(1s) (1g)} If any property that is proposed to be sold by the department under sub. (1) is co-owned by a nonstate entity, the department shall afford to that entity the right of first refusal to purchase the share of the property owned by the state on reasonable financial terms established by the department.

SECTION 27. 16.848^(1s) of the statutes is created to read:

16.848^{(1s) (1g)} (a) If the department sells or contracts with a lessee for the operation of any facility^{under sub. (1)} that is operated by an agency, as defined in s. 16.52 (7), on the day prior to the effective date of the sale or contract, the secretary shall, notwithstanding s. 16.50 (1), require submission of expenditure estimates for

1 approval under s. 16.50 (2) for each agency that proposes to expend moneys from any
2 appropriation for the operation of the facility during the fiscal biennium in which the
3 facility is sold or operated under contract.

4 (b) Notwithstanding s. 16.50 (2), the secretary shall disapprove any such
5 estimate for the period during which the facility is not operated by the agency. The
6 secretary may then require the use of the amounts of any disapproved expenditure
7 estimates for the purpose of purchase of contractual services from the facility or
8 payment of the costs of purchasing services that were provided by the facility from
9 an alternative source. If the department sells or contracts for the operation of a
10 facility under this subsection, the secretary may identify any full-time equivalent
11 positions authorized for the agency that was operating the facility the duties of which
12 primarily relate to the management or operation of the facility, and may decrease the
13 authorized full-time equivalent positions for the agency by the number of positions
14 so identified effective on the effective date of the sale or contract.

15 (c) Notwithstanding ss. 20.001 (3) (a) to (c) and 25.40 (3), the secretary may
16 lapse or transfer to the general fund from the unencumbered balance of
17 appropriations to any agency, other than sum sufficient appropriations and
18 appropriations of federal revenues, any amount appropriated to an agency that is
19 determined by the secretary to be allocated for the management or operation of the
20 facility that was sold or operated under contract effective on the effective date of the
21 sale or contract.

22 (d) The secretary shall report any action taken under this subsection to the
23 cochairpersons of the joint committee on finance.

24 **SECTION 28.** 16.848 (2) (a) of the statutes is repealed.

25 **SECTION 29.** 16.848 (2) (b) of the statutes is repealed.

1 SECTION 30. 16.848 (2) (gw) of the statutes is repealed.

2 SECTION 31. 16.848 (4) (a) of the statutes is amended to read:

3 16.848 (4) (a) ~~Except as provided in s. 13.48 (14) (e), if~~ there is any
4 outstanding public debt used to finance the acquisition, construction, or
5 improvement of any property that is sold under sub. (1), the department shall deposit
6 a sufficient amount of the net proceeds from the sale of the property in the bond
7 security and redemption fund under s. 18.09 to repay the principal and pay the
8 interest on the debt, and any premium due upon refunding any of the debt, and to
9 provide a sufficient amount for the costs of maintaining federal tax law compliance
10 applicable to the debt. If the property was acquired, constructed, or improved with
11 federal financial assistance, the department shall pay to the federal government any
12 of the net proceeds required by federal law. If the property was acquired by gift or
13 grant or acquired with gift or grant funds, the department shall adhere to any
14 restriction governing use of the proceeds. Except as required under ss. ~~13.48 (14) (e),~~
15 20.395 (9) (qd), and 51.06 (6), if there is no such debt outstanding, there are no
16 moneys payable to the federal government, and there is no restriction governing use
17 of the proceeds, and if the net proceeds exceed the amount required to be deposited,
18 paid, or used for another purpose under this paragraph, the department shall first
19 use the net proceeds or remaining net proceeds from the sale to retire any revenue
20 obligation debt in the fund that was used to acquire, construct, or improve the
21 property in the manner provided in par. (am), shall then use the proceeds or the
22 remaining net proceeds to pay principal and interest costs on outstanding public debt
23 that was used for transportation purposes from general fund supported borrowing.
24 shall then use the net proceeds or remaining net proceeds to pay principal and
25 interest costs on outstanding public debt that was used for transportation purposes

1 from segregated fund or segregated revenue supported borrowing, and shall then use
2 the net proceeds or remaining net proceeds to pay principal and interest costs on
3 other outstanding public debt.

4 **SECTION 32.** 16.848 (4) (am) of the statutes is created to read:

5 16.848 (4) (am) If there are any outstanding revenue obligations, issued
6 pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or
7 improvement of any property that is sold under sub. (1), the department shall deposit
8 a sufficient amount of the net proceeds from the sale of the property in the respective
9 redemption fund provided under s. 18.561 (5) or 18.562 (3) to repay the principal and
10 pay the interest on the revenue obligations, and any premium due upon refunding
11 any of the revenue obligations, and to provide a sufficient amount for the costs of
12 maintaining federal tax law compliance applicable to the revenue obligations. For
13 the purpose of paying principal and interest costs on other outstanding revenue
14 obligations, the secretary may cause outstanding revenue obligations to be called for
15 redemption on or following their optional redemption date, establish one or more
16 escrow accounts to redeem obligations at their optional redemption date, or purchase
17 bonds on the open market.

18 **SECTION 33.** 16.848 (4) (b) (intro.) of the statutes is amended to read:

19 16.848 (4) (b) (intro.) ~~For~~ Except as otherwise required under par. (a), for the
20 purpose of paying principal and interest costs on other outstanding public debt under
21 par. (a), the secretary may cause outstanding bonds to be called for redemption on
22 or following their optional redemption date, establish one or more escrow accounts
23 to redeem bonds at their optional redemption date, or purchase bonds in the open
24 market. To the extent practical, the secretary shall consider all of the following in
25 determining which public debt to redeem:

1 **SECTION 34.** 16.848 (4) (b) 2. of the statutes is repealed.

2 **SECTION 35.** 16.848 (4) (b) 5. of the statutes is amended to read:

3 16.848 (4) (b) 5. The costs of maintaining federal tax law compliance in the
4 selection of general obligation debt to be redeemed.

5 **SECTION 36.** 18.09 (2) of the statutes is amended to read:

6 18.09 (2) Each sinking fund shall be expended, and all moneys from time to
7 time on hand therein are irrevocably appropriated, in sums sufficient, only for the
8 payment of principal and interest on the bonds giving rise to it, premium, if any, due
9 upon redemption of any such bonds, and payment due, if any, under an agreement
10 or ancillary arrangement that has been entered into under s. 18.06 (8) (a) with
11 respect to any such bonds and that has been determined to be payable from the bond
12 security and redemption fund under s. 18.06 (8) (a) 2. and for the costs of maintaining
13 federal tax law compliance applicable to the bonds.

14 **SECTION 37.** 18.561 (5) of the statutes is amended to read:

15 18.561 (5) REDEMPTION FUND. The proportion which shall be set aside for the
16 payment of the principal of and interest on the enterprise obligations and, as directed
17 by the commission, payments to be received with respect to an agreement or ancillary
18 arrangement entered into pursuant to s. 18.55 (6), shall, at such times as provided
19 in the authorizing resolution, be set apart and paid into a separate fund in the
20 treasury or in an account maintained by a trustee appointed for that purpose in the
21 authorizing resolution to be identified as “the ... redemption fund”. Each redemption
22 fund shall be expended, and all moneys from time to time on hand therein are
23 irrevocably appropriated, in sums sufficient, only for the payment of principal of and
24 interest on the enterprise obligations giving rise to it and premium, if any, due upon
25 redemption of any such obligations, ~~and~~ for payment of obligations under an

1 agreement or ancillary arrangement entered into under s. 18.55 (6) to the extent
2 provided for in an authorizing resolution, and for the costs of maintaining federal tax
3 law compliance applicable to the obligations. Moneys in the redemption funds may
4 be commingled only for the purpose of investment with other public funds, but they
5 shall be invested only in investment instruments permitted in s. 25.17 (3) (dr). All
6 such investments shall be the exclusive property of the fund and all earnings on or
7 income from such investments shall be credited to the fund.

8 **SECTION 38.** 18.562 (3) of the statutes is amended to read:

9 18.562 (3) REDEMPTION FUND. The special fund revenues that are to be set aside
10 for the payment of the principal of and interest on the special fund obligations and,
11 as directed by the commission, payments to be received with respect to an agreement
12 or ancillary arrangement entered into under s. 18.55 (6), shall be paid into a separate
13 fund in the treasury or in an account maintained by a trustee appointed for that
14 purpose in the authorizing resolution to be identified as “the ... redemption fund”.
15 Each redemption fund shall be expended, and all moneys from time to time on hand
16 therein are irrevocably appropriated, in sums sufficient, only for the payment of
17 principal of and interest on the special fund obligations giving rise to it and premium,
18 if any, due upon redemption of any such obligations, ~~and~~ for payment of obligations
19 under an agreement or ancillary arrangement entered into under s. 18.55 (6) to the
20 extent provided for in an authorizing resolution, and for the costs of maintaining
21 federal tax law compliance applicable to the obligations. Moneys in the redemption
22 funds may be commingled only for the purpose of investment with other public funds,
23 but they shall be invested only in investment instruments permitted in s. 25.17 (3)
24 (dr). All such investments shall be the exclusive property of the fund and all earnings
25 on or income from such investments shall be credited to the fund.

1 **SECTION 39.** 20.373 (1) (g) of the statutes is amended to read:

2 20.373 (1) (g) *Administration, operation, repair, and rehabilitation.* From the
3 general fund, all moneys received from the sale of surplus land under 2005 Wisconsin
4 Act 25, section 9105 (14q) except as provided in s. 13.48 (14) (am) or 16.848 (1), to be
5 used for administration of the authority and the operation, repair, and rehabilitation
6 of the Fox River lock system.

7 **SECTION 40.** 25.17 (8) of the statutes is amended to read:

8 25.17 (8) Accept, when necessary to protect a mortgage loan, a quitclaim deed
9 or warranty deed to the mortgaged property in full satisfaction of the mortgage debt,
10 and, subject to prior action under s. 13.48 (1) (am) or 16.848 (1), manage, operate,
11 lease, exchange, sell and convey, by land contract, quitclaim deed or warranty deed,
12 and grant easement rights in, any real property acquired by the board.

13 **SECTION 41.** 25.60 of the statutes is amended to read:

14 **25.60 Budget stabilization fund.** There is created a separate nonlapsible
15 trust fund designated as the budget stabilization fund, consisting of moneys
16 transferred to the fund from the general fund under ss. ~~13.48 (14) (e)~~, 16.518 (3), and
17 16.72 (4) (b).

18 **SECTION 42.** 36.09 (1) (L) of the statutes is amended to read:

19 36.09 (1) (L) The board shall possess all powers necessary or convenient for the
20 operation of the system except as limited in this chapter and ss. 13.48 (14) (am) and
21 16.848 (1).

22 ~~**SECTION 43.** 36.09 (1) (m) of the statutes is created to read:~~

23 36.09 (1) (m) If the department of administration sells, leases, or contracts with
24 a lessee for the operation of any real property that was under the jurisdiction of the
25 board prior to the sale, lease, or contract, the board shall convey all systems, fixtures,

1 or additional property interests specified by the department of administration to the
2 purchaser or lessor of the property on terms specified by the department of
3 administration.

4 **SECTION 44.** 36.11 (1) (b) of the statutes is amended to read:

5 36.11 (1) (b) Except as provided in this paragraph and ss. 13.48 (14) (am) and
6 16.848 (1), the board may purchase, have custody of, hold, control, possess, lease,
7 grant easements and enjoy any lands, buildings, books, records and all other
8 property of any nature which may be necessary and required for the purposes, objects
9 and uses of the system authorized by law. Any lease by the board is subject to the
10 powers of the University of Wisconsin Hospitals and Clinics Authority under s.
11 233.03 (13) and the rights of the authority under any lease agreement, as defined in
12 s. 233.01 (6). The board shall not permit a facility that would be privately owned or
13 operated to be constructed on state-owned land without obtaining prior approval of
14 the building commission under s. 13.48 (12). The Subject to prior action under s.
15 13.48 (14) (am) or 16. 848 (1), the board may sell or dispose of such property as
16 provided by law, or any part thereof when in its judgment it is for the best interests
17 of the system and the state. All purchases ~~and sales~~ of real property shall be subject
18 to the approval of the building commission. The provision of all leases of real
19 property to be occupied by the board shall be the responsibility of the department of
20 administration under s. 16.84 (5).

21 **SECTION 45.** 36.11 (1) (e) of the statutes is amended to read:

22 36.11 (1) (e) The Subject to prior action under s. 13.48 (14) (am) or 16.848 (1),
23 the board, with the approval of the building commission, may sell or lease
24 state-owned residence halls to another state agency or nonstate nonprofit agency for
25 purposes of alternate use.

1 **SECTION 46.** 36.11 (28) of the statutes is amended to read:

2 **36.11 (28) LEASE AGREEMENT WITH THE UNIVERSITY OF WISCONSIN HOSPITALS AND**
3 **CLINICS AUTHORITY.** Subject to 1995 Wisconsin Act 27, section 9159 (2) (k), and subject
4 to any prior lease entered into under s. 13.48 (14) (am) or 16.848 (1), the board shall
5 negotiate and enter into a lease agreement with the University of Wisconsin
6 Hospitals and Clinics Authority that meets the requirements under s. 233.04 (7) and
7 shall comply with s. 233.04 (7g).

8 **SECTION 47.** 36.33 (title) and (1) of the statutes are amended to read:

9 **36.33 (title) Sale or lease and relocation of agricultural lands. (1)**
10 LEGISLATIVE INTENT. The legislature finds and determines that, because of the
11 problems resulting from the development of the city of Madison around certain
12 agricultural lands of the University of Wisconsin–Madison, the desirability of
13 consolidating lands used for agricultural instruction, research and extension
14 purposes, the desirability of disposing of agricultural lands no longer needed by the
15 university and the need for land of better quality and of greater quantity for the
16 purpose of improving and expanding agricultural research, it is in the public interest
17 for the board to sell or lease, in whole or in part, and subject to any prior action under
18 s. 13.48 (14) (am) or 16.848 (1), the agricultural lands and improvements thereon
19 owned by the board and located in sections 19, 20 and 30, township 7 north, range
20 9 east, Dane County; sections 25 and 27, township 7 north, range 8 east, Dane
21 County; sections 34 and 35, township 38 north, range 11 east, Oneida County; and
22 section 22, township 22 north, range 8 east, Portage County; and to purchase other
23 agricultural lands outside of the Madison urban area and to construct thereon the
24 necessary buildings and improvements. The foregoing policy determination is made

1 without reference to or intention of limiting the powers which the board may
2 otherwise have.

3 **SECTION 48.** 36.33 (2) (title) and (a) (intro.) of the statutes are amended to read:

4 36.33 (2) (title) METHOD OF SALE OR LEASE; ASSESSMENTS. (a) (intro.) The Subject
5 to any prior action under s. 13.48 (14) (am) or 16.848 (1), the board, in selling or
6 leasing any part of the agricultural lands and improvements thereon, mentioned in
7 sub. (1), shall sell or lease on the basis of either of the following:

8 **SECTION 49.** 36.33 (3) of the statutes is amended to read:

9 36.33 (3) BUILDING COMMISSION APPROVAL. The sale, lease and purchase of
10 agricultural lands mentioned in sub. (1) is subject to prior action under s. 13.48 (14)
11 (am) or 16.848 (1) and shall be subject to the approval of the building commission.

12 **SECTION 50.** 41.23 of the statutes is amended to read:

13 **41.23 Sale of excess or surplus property.** The department may acquire
14 excess or surplus property from the department of administration under ss. 16.72 (4)
15 (b) and 16.98 (1) or from the department of transportation under s. 84.09 (5s) and,
16 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), the department may
17 sell the property acquired under this section to any person at a price determined by
18 the department of tourism. All proceeds received by the department of tourism from
19 the sale of property under this section shall be credited to the appropriation account
20 under s. 20.380 (1) (h).

21 **SECTION 51.** 41.41 (7) (b) of the statutes is amended to read:

22 41.41 (7) (b) Lease Subject to any prior action under s. 13.48 (14) (am) or 16.848
23 (1), lease land that is part of the Kickapoo valley reserve to any person for purposes
24 consistent with the management of the reserve under sub. (3), or for agricultural
25 purposes, and lease other land that is acquired by the board for any lawful purpose.

1 **SECTION 52.** 44.015 (1) of the statutes is amended to read:

2 44.015 (1) Acquire any interest in real or personal property by gift, bequest or
3 otherwise in any amount and, subject to prior action under s. 13.48 (14) (am) or
4 16.848 (1), may operate, manage, sell, or rent ~~or convey~~ real estate acquired by gift,
5 bequest, foreclosure or other means, upon such terms and conditions as the board of
6 curators deems for its interests but may not sell, mortgage, transfer or dispose of in
7 any manner or remove from its buildings, except for temporary purposes, any article
8 therein without authority of law.

9 **SECTION 53.** 44.16 (1) of the statutes is amended to read:

10 44.16 (1) The Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),
11 the historical society may enter into a lease agreement with the Circus World
12 Museum Foundation, Inc., for the purpose of operating Circus World Museum,
13 located in Baraboo, Wisconsin. The lease agreement shall not include any provision
14 for the payment of a percentage of gross admissions income at Circus World Museum
15 to the historical society.

16 **SECTION 54.** 45.03 (5) (c) 1. a. of the statutes is amended to read:

17 45.03 (5) (c) 1. a. Without limitation by reason of any other provisions of the
18 statutes except s. ss. 13.48 (14) (am) and 16.848 (1), unless otherwise required by law,
19 the power to sell and to convey title in fee simple to a nonprofit corporation any land
20 and any existing buildings owned by the state that are under the jurisdiction of the
21 department for the consideration and upon the terms and conditions as in the
22 judgment of the board are in the public interest.

23 **SECTION 55.** 46.03 (30) (a) of the statutes is amended to read:

24 46.03 (30) (a) To provide for an orderly reduction of state institutional primary
25 psychiatric services the department may approve the institutes entering into

1 contracts with county departments under s. 51.42 for providing primary psychiatric
2 care. If excess capacity exists at state operated mental health institutes, the
3 department shall, subject to ~~s. ss. 13.48 (14) (am) and~~ 16.848 (1), explore the possible
4 sale or lease of such excess facilities to a county department under s. 51.42.

5 **SECTION 56.** 46.035 (2) (a) of the statutes is amended to read:

6 46.035 (2) (a) Without limitation by reason of any other provisions of the
7 statutes except ~~s. ss. 13.48 (14) (am) and~~ 16.848 (1), the power to sell and to convey
8 title in fee simple to a nonprofit corporation any land and any existing buildings
9 thereon owned by, or owned by the state and held for, the department or of any of the
10 institutions under the jurisdiction of the department for such consideration and
11 upon such terms and conditions as in the judgment of the secretary are in the public
12 interest.

13 **SECTION 57.** 46.06 (4) of the statutes is amended to read:

14 46.06 (4) SALES. The department may, with the approval of the building
15 commission, and subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), sell
16 and convey such lands under the jurisdiction of the department as the secretary
17 deems to be in excess of the present or future requirements of the department for
18 either the operation of its facilities or programs, for the maintenance of buffer zones
19 adjacent to its facilities or for other public purposes. The proceeds of such sales are
20 subject to s. 13.48 (14) (c).

21 **SECTION 58.** 51.06 (6) of the statutes is amended to read:

22 51.06 (6) SALE OF ASSETS OR REAL PROPERTY AT NORTHERN CENTER FOR THE
23 DEVELOPMENTALLY DISABLED. The department may maintain the Northern Center for
24 the Developmentally Disabled for the purpose specified in sub. (1), but may sell
25 assets or real property, of the Northern Center for the Developmentally Disabled,

1 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1). If there is any
2 outstanding public debt used to finance the acquisition, construction, or
3 improvement of any property that is sold under this subsection, the department shall
4 deposit a sufficient amount of the net proceeds from the sale of the property in the
5 bond security and redemption fund under s. 18.09 to repay the principal and pay the
6 interest on the debt, and any premium due upon refunding any of the debt. If the
7 property was purchased with federal financial assistance, the department shall pay
8 to the federal government any of the net proceeds required by federal law. If there
9 is no such debt outstanding and there are no moneys payable to the federal
10 government, or if the net proceeds exceed the amount required to be deposited or paid
11 under this subsection, the department shall credit the net proceeds or remaining net
12 proceeds to the appropriation account under s. 20.435 (2) (gk).

13 **SECTION 59.** 84.01 (30) (g) 3. of the statutes is amended to read:

14 84.01 (30) (g) 3. Notwithstanding any other statute except ss. 13.48 (14) (am)
15 and 16.848 (1), the department may sell, at the appraised value, the real estate upon
16 which a park-and-ride facility is or may be located, if the department determines
17 that the sale is in the best interests of the public and the department determines that
18 the real estate will be used in a manner consistent with the state's transportation
19 interests.

20 **SECTION 60.** 84.09 (1) of the statutes is amended to read:

21 84.09 (1) The department may acquire by gift, devise, purchase or
22 condemnation any lands for establishing, laying out, widening, enlarging,
23 extending, constructing, reconstructing, improving and maintaining highways and
24 other transportation related facilities, or interests in lands in and about and along
25 and leading to any or all of the same; and after establishment, layout and completion

1 of such improvements, the department may, subject to any prior action under s. 13.48
2 (14) (am) or 16.848 (1), convey such lands thus acquired and not necessary for such
3 improvements, with reservations concerning the future use and occupation of such
4 lands so as to protect such public works and improvements and their environs and
5 to preserve the view, appearance, light, air and usefulness of such public works.
6 Whenever the department deems it necessary to acquire any such lands or interests
7 therein for any transportation related purpose, it shall so order and in such order or
8 on a map or plat show the old and new locations and the lands and interests required,
9 and shall file a copy of the order and map with the county clerk and county highway
10 committee of each county in which such lands or interests are required or, in lieu of
11 filing a copy of the order and map, may file or record a plat in accordance with s.
12 84.095. For the purposes of this section the department may acquire private or public
13 lands or interests in such lands. When so provided in the department's order, such
14 land shall be acquired in fee simple. Unless it elects to proceed under sub. (3), the
15 department shall endeavor to obtain easements or title in fee simple by conveyance
16 of the lands or interests required at a price, including any damages, deemed
17 reasonable by the department. The instrument of conveyance shall name the state
18 as grantee and shall be recorded in the office of the register of deeds. The purchase
19 or acquisition of lands or interests therein under this section is excepted and exempt
20 from s. 20.914 (1). The department may purchase or accept donations of remnants
21 of tracts or parcels of land existing at the time or after it has acquired portions of such
22 tracts or parcels by purchase or condemnation for transportation purposes where in
23 the judgment of the department such action would assist in making whole the
24 landowner, a part of whose lands have been taken for transportation purposes and

1 would serve to minimize the overall costs of such taking by the public. This
2 subsection does not apply to lands that are sold under s. 16.848.

3 **SECTION 61.** 84.09 (5) (a) of the statutes is amended to read:

4 84.09 (5) (a) Subject to pars. (b) and (c) and any prior action under s. 13.48 (14)
5 (am) or 16.848 (1), and subject to the approval of the governor, the department may
6 sell at public or private sale property of whatever nature owned by the state and
7 under the jurisdiction of the department when the department determines that the
8 property is no longer necessary for the state's use for transportation purposes and,
9 if real property, the real property is not the subject of a petition under s. 16.310 (2).
10 The department shall present to the governor a full and complete report of the
11 property to be sold, the reason for the sale, and the minimum price for which the same
12 should be sold, together with an application for the governor's approval of the sale.
13 The governor shall thereupon make such investigation as he or she may deem
14 necessary and approve or disapprove the application. Upon such approval and
15 receipt of the full purchase price, the department shall by appropriate deed or other
16 instrument transfer the property to the purchaser. The approval of the governor is
17 not required for public or private sale of property having an appraised value at the
18 time of sale of not more than \$15,000, for the transfer of surplus state real property
19 to the department of administration under s. 16.310, or for the transfer of surplus
20 state personal property to the department of tourism under sub. (5s). The funds
21 derived from sales under this subsection shall be deposited in the transportation
22 fund, and the expense incurred by the department in connection with the sale shall
23 be paid from such fund.

24 **SECTION 62.** 84.09 (5) (c) 1. (intro.) of the statutes is amended to read:

1 84.09 (5) (c) 1. (intro.) ~~Prior~~ Subject to any prior action under s. 13.48 (14) (am)
2 or 16.848 (1), prior to conducting a public sale on a generally marketable surplus land
3 parcel under par. (b), the department shall contact the county, municipality, and the
4 local school district where the land parcel is located and the department of natural
5 resources to solicit interest in acquiring the parcel for public use. Upon notification
6 from the department, the county, municipality, local school district, and department
7 of natural resources must respond to the department, stating their interest in the
8 land for public use, within 60 days. Failure to respond within 60 days constitutes
9 noninterest in the land parcel.

10 **SECTION 63.** 84.09 (5) (c) 2. (intro.) of the statutes is amended to read:

11 84.09 (5) (c) 2. (intro.) Except as provided in subd. 2m. and subject to any prior
12 action under s. 13.48 (14) (am) or 16.848 (1), if a county, a municipality, a local school
13 district, or the department of natural resources expresses interest in acquiring the
14 land for public use, the department shall offer the county, municipality, local school
15 district, or department of natural resources the property at its appraised value if all
16 of the following are true:

17 **SECTION 64.** 84.09 (5) (c) 2m. (intro.) of the statutes is amended to read:

18 84.09 (5) (c) 2m. (intro.) If a county, municipality, or a local school district
19 expresses interest in acquiring the land for public use related to transportation or
20 infrastructure, the department may, subject to any prior action under s. 13.48 (14)
21 (am) or 16.848 (1), offer the county, municipality, or the local school district the
22 property, for less than the appraised value of the property, if all of the following are
23 true:

24 **SECTION 65.** 84.09 (5m) of the statutes is amended to read:

1 84.09 (5m) Subject to the approval of the governor in the manner, scope, and
2 form provided by sub. (5) (a), and subject to any prior action under s. 13.48 (14) (am)
3 or 16.848 (1), the department may convey lands or interests therein acquired
4 pursuant to this section and improvements installed thereon to municipalities
5 within whose limits such lands or interests therein are located. The conveyance of
6 said lands or interests therein and improvements shall restrict the use of the
7 premises by the municipality to the uses for which they were acquired, except that
8 said lands or interests therein declared by the department to be excess may be so
9 conveyed without restrictions as to use. This subsection shall apply only to the sale
10 of property acquired by the department for a project that is completed before May 25,
11 2006. The department may sell property that is acquired by the department for a
12 project that is completed after May 25, 2006, to a municipality under sub. (5) (c), as
13 applicable.

14 **SECTION 66.** 84.09 (6) of the statutes is amended to read:

15 84.09 (6) ~~Lands~~ Subject to any prior action under s. 13.48 (14) (am) or 16.848
16 (1), lands held by any other state department or independent agency may, with the
17 approval of the governor, be conveyed to the department in the manner prescribed
18 by statute and, if none is prescribed, then by a conveyance authorized by appropriate
19 order or resolution of the head of the department or independent agency concerned.

20 **SECTION 67.** 84.09 (9) of the statutes is repealed.

21 **SECTION 68.** 84.40 (2) (a) of the statutes is amended to read:

22 84.40 (2) (a) ~~May~~ Subject to any prior action under s. 13.48 (14) (am) or 16.848
23 (1), may sell and convey to a nonprofit-sharing corporation any public right-of-way
24 available for highway purposes and any existing highways or other improvements
25 thereon owned by the state or under the jurisdiction of the department for such

1 consideration and upon such terms and conditions as the department deems in the
2 public interest.

3 **SECTION 69.** 85.09 (2) (a) of the statutes is amended to read:

4 85.09 (2) (a) The department of transportation shall have the first right to
5 acquire, for present or future transportation or recreational purposes, any
6 property used in operating a railroad or railway, including land and rails, ties,
7 switches, trestles, bridges, and the like located on that property, that has been
8 abandoned. The department of transportation may, in connection with abandoned
9 rail property, assign this right to a state agency, the board of regents of the University
10 of Wisconsin System, any county or municipality, or any transit commission.
11 Acquisition by the department of transportation may be by gift, purchase, or
12 condemnation in accordance with the procedure under s. 32.05. In addition to its
13 property management authority under s. 85.15, the department of transportation
14 may, subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), lease and collect
15 rents and fees for any use of rail property pending discharge of the department's duty
16 to convey property that is not necessary for a public purpose. No person owning
17 abandoned rail property, including any person to whom ownership reverts upon
18 abandonment, may convey or dispose of any abandoned rail property without first
19 obtaining a written release from the department of transportation indicating that
20 the first right of acquisition under this subsection will not be exercised or assigned.
21 No railroad or railway may convey any rail property prior to abandonment if the rail
22 property is part of a rail line shown on the railroad's system map as in the process
23 of abandonment, expected to be abandoned, or under study for possible
24 abandonment unless the conveyance or disposal is for the purpose of providing
25 continued rail service under another company or agency. Any conveyance made

1 without obtaining such release is void. The first right of acquisition of the
2 department of transportation under this subsection does not apply to any rail
3 property declared by the department to be abandoned before January 1, 1977. The
4 department of transportation may acquire any abandoned rail property under this
5 section regardless of the date of its abandonment.

6 **SECTION 70.** 85.09 (4) of the statutes is amended to read:

7 **85.09 (4) ACQUISITION AND CONVEYANCE.** Upon its own initiative, the department
8 may determine at any time whether the rail property is abandoned, and whether it
9 is in the best interest of the state to acquire the rail property. Within 90 days after
10 being requested by any state agency, any railroad or any county or municipality in
11 which the rail property is located, the department shall, subject to sub. (5) (b), make
12 a determination of the abandonment status and, if found to be abandoned, shall
13 determine whether it is in the best interest of the public to acquire the rail property.

14 If it is determined to acquire the rail property or any part or interest therein, the
15 department shall, within 180 days of the determination of its abandoned status, or
16 the interstate commerce commission's final order permitting the abandonment, or
17 the termination of any efforts to negotiate an agreement for continual operation of
18 rail service on the line, whichever occurs last, determine the fair market value of the
19 rail property and acquire the rail property at a price deemed reasonable by the
20 department or make a relocation order under s. 32.05. In making its determination,
21 the department shall consider long-range potential for use of the rail property for
22 restoration of railroad service and for other transportation related purposes. The
23 department shall solicit the opinions of appropriate state agencies, affected counties
24 and municipalities and other interested persons. The department shall give due
25 consideration to an expressed desire by a state agency or an affected county or

1 municipality to acquire, in whole or in part, the rail property under consideration.
2 Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1) and subject to sub.
3 (6), all or part of any interest in abandoned rail property acquired by the department
4 under this section or under s. 66.941 (7), 1975 stats., may be subsequently conveyed
5 to another state agency or a county or municipality for transportation purposes,
6 recreational purposes, scenic purposes or for the purpose of constructing a
7 correctional institution, or to a railroad for continued railroad transportation
8 operations when the railroad has operated on the rail property for 5 years and the
9 department may make such conveyances for such purposes. Any determination of
10 the department under this section that rail property is not abandoned shall not
11 preclude the undertaking of a subsequent investigation and determination
12 concerning the same rail property or any portion thereof. If at any time subsequent
13 to the acquisition of rail property under this section the department determines that
14 the rail property is not suitable for transportation purposes, recreational purposes,
15 scenic purposes or for the purpose of constructing a correctional institution, or that
16 the rail property or any interest therein may be conveyed to any other person on
17 terms which are not inconsistent with the potential use of the rail property for
18 transportation purposes, recreational purposes, scenic purposes or for the purpose
19 of constructing a correctional institution or which yield a benefit, including financial
20 benefits, to the state which outweighs the benefit derived from the rail property if
21 used for transportation purposes, recreational purposes, scenic purposes or for the
22 purpose of constructing a correctional institution, the department may convey the
23 rail property or such interest therein, subject to any prior action under s. 13.48 (14)
24 (am) or 16.848 (1) and subject to sub. (6). The department shall give notice of its
25 intention to make the conveyance, and state and local units of government shall have

1 the first 6 months in which to exercise their opportunity to acquire the rail property
2 or interest therein. The railroad from which the rail property was acquired shall
3 have the next 6 months in which to exercise its opportunity to reacquire the rail
4 property or interest therein.

5 **SECTION 71.** 85.09 (4i) of the statutes is amended to read:

6 85.09 (4i) DISPOSAL OF RAIL PROPERTY. The department, subject to any prior
7 action under s. 13.48 (14) (am) or 16.848 (1), shall sell at public or private sale rail
8 property acquired under sub. (4) when the department determines that the rail
9 property is not necessary for a public purpose and, if real property, the real property
10 is not the subject of a petition under s. 16.310 (2). Upon receipt of the full purchase
11 price, the department shall, by appropriate ~~deed or other~~ instrument, transfer the
12 rail property to the purchaser. The funds derived from sales under this subsection
13 shall be deposited in the transportation fund, and the expense incurred by the
14 department in connection with the sale shall be paid from the appropriation under
15 s. 20.395 (2) (bq). ~~This subsection does not apply to real property that is sold under~~
16 ~~s. 16.848.~~

17 **SECTION 72.** 85.15 (1) of the statutes is amended to read:

18 85.15 (1) ~~The~~ Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),
19 the department may improve, use, maintain or lease any property acquired for
20 highway, airport or any other transportation purpose until the property is actually
21 needed for any such purpose and may permit use of the property for purposes and
22 upon such terms and conditions as the department deems in the public interest.

23 **SECTION 73.** 108.161 (7) of the statutes is amended to read:

24 108.161 (7) If any moneys appropriated hereunder are used to buy and hold
25 suitable land, with a view to the future construction of an employment security

1 building thereon, and if such land is later sold or transferred to other use, the
2 proceeds of such sale (or the value of such land when transferred) shall be credited
3 to the account created by sub. (1) except as otherwise provided in s. 13.48 (14) and
4 16.848.

5 **SECTION 74.** 108.161 (9) of the statutes is amended to read:

6 108.161 (9) Any land and building or office quarters acquired under this section
7 shall continue to be used for employment security purposes. Realty or quarters may
8 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)
9 or 16.848 (1) and may not be sold or transferred without the governor's approval. The
10 proceeds from the sale, or the value of realty or quarters upon transfer, shall be
11 credited to the account established in sub. (1) or credited to the fund established in
12 s. 108.20, or both in accordance with federal requirements. Equivalent substitute
13 rent-free quarters may be provided, as federally approved. Amounts credited under
14 this subsection shall be used solely to finance employment security quarters
15 according to federal requirements.

16 **SECTION 75.** 114.33 (6) (a) of the statutes is amended to read:

17 114.33 (6) (a) For the purposes of carrying out this section and ss. 114.35 and
18 114.37, the secretary may acquire by gift, devise, purchase or condemnation any
19 lands for establishing, protecting, laying out, enlarging, extending, constructing,
20 reconstructing, improving and maintaining airports, or interests in lands in and
21 about airports. After completion of the improvements, subject to any prior action
22 under s. 13.48 (14) (am) or 16.848 (1), the secretary may convey as provided in this
23 subsection lands that were acquired under this subsection, but were not necessary
24 for the airport improvements. The conveyances may be made with reservations
25 concerning the future use and occupation of those lands so as to protect the airports

1 and improvements and their environs and to preserve the view, appearance, light,
2 air and usefulness of the airports.

3 **SECTION 76.** 114.33 (10) of the statutes is amended to read:

4 114.33 (10) Subject to the approval of the governor under this subsection and
5 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), the secretary may
6 sell at public or private sale property of whatever nature owned by the state and
7 under the jurisdiction of the secretary when the secretary determines that the
8 property is no longer necessary for the state's use for airport purposes and, if real
9 property, the real property is not the subject of a petition under s. 16.310. The
10 secretary shall present to the governor a full and complete report of the property to
11 be sold, the reason for the sale, and the minimum price for which the property should
12 be sold, together with an application for the governor's approval of the sale. The
13 governor shall investigate the proposed sale as he or she deems necessary and
14 approve or disapprove the application. Upon approval and receipt of the full
15 purchase price, the secretary shall by appropriate deed or other instrument transfer
16 the property to the purchaser. The funds derived from the sale shall be deposited in
17 the appropriate airport fund, and the expense incurred by the secretary in
18 connection with the sale shall be paid from that fund. ~~This subsection does not apply~~
19 ~~to real property that is sold under s. 16.848.~~

20 **SECTION 77.** 301.235 (2) (a) 1. of the statutes is amended to read:

21 301.235 (2) (a) 1. Without limitation by reason of any other statute except s.
22 ss. 13.48 (14) (am) and 16.848 (1), the power to sell and to convey title in fee simple
23 to a nonprofit corporation any land and any existing buildings thereon owned by, or
24 owned by the state and held for, the department or any of the institutions under the

1 jurisdiction of the department for such consideration and upon such terms and
2 conditions as in the judgment of the secretary are in the public interest.

3 **SECTION 78.** 301.24 (4) of the statutes is amended to read:

4 301.24 (4) SALES. Except where a sale occurs under s. 13.48 (14) (am) or 16.848
5 (1), the department, with the approval of the building commission, may sell and
6 convey such lands under the jurisdiction of the department as the secretary deems
7 to be in excess of the present or future requirements of the department for either the
8 operation of its facilities or programs, for the maintenance of buffer zones adjacent
9 to its facilities or for other public purposes. The proceeds of the sales shall be credited
10 to the state building trust fund.

11 **SECTION 79.** 301.24 (4m) of the statutes is amended to read:

12 301.24 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION. In addition to
13 any other requirements under this section, except where a sale occurs under s. 13.48
14 (14) (am) or 16.848 (1), the department may sell or otherwise transfer or dispose of
15 the property acquired for the correctional institution under s. 46.05 (1o), 1985 stats.,
16 only if the sale, transfer or disposition is approved by the joint committee on finance.
17 The department shall submit a plan for any such proposed sale, transfer or
18 disposition to the committee.

19 **SECTION 80.** 302.04 of the statutes is amended to read:

20 **302.04 Duties of warden and superintendents.** Except as provided in s.
21 ss. 13.48 (14) (am) and 16.848 (1), the warden or the superintendent of each state
22 prison shall have charge and custody of the prison and all lands, belongings,
23 furniture, implements, stock and provisions and every other species of property
24 within the same or pertaining thereto. The warden or superintendent shall enforce

1 the rules of the department for the administration of the prison and for the
2 government of its officers and the discipline of its inmates.

3 (END)

IN 54-23

~~or lease is not completed and no further action is pending with respect to the property.~~

~~the authority of the agency to sell or lease the property is restored.~~ If the department

~~sells or leases any state-owned real property under this subsection, the department~~

~~may attach such conditions to the sale or lease as it finds to be necessary or~~

~~appropriate to carry out the sale or lease in the best interest of the state.~~ If the

~~department leases a state-owned heating, cooling, or power plant under this~~

~~subsection, the department may contract with the lessee for the operation of the~~

~~plant. Notwithstanding ss. 196.49 and 196.80, if the department sells or leases a~~

~~state-owned heating, cooling, or power plant under this subsection to a public utility,~~

~~as defined in s. 196.01 (5), no approval or certification of the public service~~

~~commission is necessary for the public utility to purchase or lease the plant, or~~

~~contract for operation of any function performed by the state at a plant that is leased~~

~~to the public utility under this subsection, and any such purchase, lease, or contract~~

~~is considered to be in the public interest and to comply with the criteria for~~

~~certification of a project under s. 196.49 (3) (b).~~

SECTION 26. 16.848 (1g) of the statutes is created to read:

16.848 (1g) If any property that is proposed to be sold by the department under sub. (1) is co-owned by a nonstate entity, the department shall afford to that entity the right of first refusal to purchase the share of the property owned by the state on reasonable financial terms established by the department.

SECTION 27. 16.848 (1r) of the statutes is created to read:

16.848 (1r) (a) If the department sells or contracts with a lessee for the operation of any facility that is operated by an agency, as defined in s. 16.52 (7), on the day prior to the effective date of the sale or contract, the secretary shall, notwithstanding s. 16.50 (1), require submission of expenditure estimates for

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transferred to the fund from the general fund under ss. 13.48 (14) (e), 16.518 (3), and 16.72 (4) (b).

SECTION 36. 36.09 (1) (L) of the statutes is amended to read:

36.09 (1) (L) The board shall possess all powers necessary or convenient for the operation of the system except as limited in this chapter and ss. 13.48 (14) (am) and 16.848 (1).

SECTION 37. ^{13.48 (14) (bm)} ~~36.09 (1) (m)~~ of the statutes is created to read:

^{13.48 (14) (bm)} ~~36.09 (1) (m)~~ If the ~~department of administration~~ ^{building commission} sells, leases, or contracts with ~~a lessee for the operation of~~ ^{under par. (am)} any real property that was under the jurisdiction of the ~~board~~ ^{any other agency} prior to the sale, lease, or contract, the ~~board~~ ^{agency} shall convey all systems, fixtures, or additional property interests specified by the ~~department of administration~~ ^{commission} to the purchaser or lessor of the property on terms specified by the ~~department of administration~~ ^{commission}.

SECTION 38. 36.11 (1) (b) of the statutes is amended to read:

36.11 (1) (b) Except as provided in this paragraph and ss. 13.48 (14) (am) and 16.848 (1), the board may purchase, have custody of, hold, control, possess, lease, grant easements and enjoy any lands, buildings, books, records and all other property of any nature which may be necessary and required for the purposes, objects and uses of the system authorized by law. Any lease by the board is subject to the powers of the University of Wisconsin Hospitals and Clinics Authority under s. 233.03 (13) and the rights of the authority under any lease agreement, as defined in s. 233.01 (6). The board shall not permit a facility that would be privately owned or operated to be constructed on state-owned land without obtaining prior approval of the building commission under s. 13.48 (12). The Subject to prior action under s. 13.48 (14) (am) or 16.848 (1), the board may sell or dispose of such property as

JWS 14-15

transferred to the fund from the general fund under ss. 13.48 (14) (e), 16.518 (3), and 16.72 (4) (b).

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SECTION 37. ^{16.848 (1e)} ~~36.09 (1) (m)~~ of the statutes is created to read:

^{16.848 (1e)} ~~36.09 (1) (m)~~ If the department ~~of administration~~ ^{under sub. (1)} sells, leases, or contracts with a lessee for the operation of any real property ~~that was under the jurisdiction of the~~ ^{and an agency, as defined in s. 16.52 (7) i)} ~~board~~ prior to the sale, lease, or contract, the ~~board~~ ^{agency} shall convey all systems, fixtures, or additional property interests specified by the department ~~of administration~~ to the purchaser or lessor of the property on terms specified by the department ~~of~~.

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Kuesel, Jeffery

From: Kraus, Jennifer - DOA <jennifer.kraus@wisconsin.gov>
Sent: Monday, February 11, 2013 12:50 PM
To: Kuesel, Jeffery
Cc: Bong, Sasha E - DOA
Subject: RE: Sale of assets draft

A couple of additional small changes:

- 1) P. 14 line 5 – can you add ...If the department "sells" or leases.... ✓
- 2) P.14 line 7 – can you add may contract with the "purchaser or" lessee... ✓
- 3) Can you replicate s.16.848(1m) in the Building Commission statutes? ✓
- 4) Our intent is to not lapse any SEG or UW PR under 16.848(1s) – can you broaden? narrow ✓

Thanks much, Jeff.

+ s. 16.848(1s) add lease

Jenny

From: Kraus, Jennifer - DOA
Sent: Monday, February 11, 2013 10:56 AM
To: Kuesel, Jeffery (Jeffery.Kuesel@legis.wisconsin.gov)
Cc: Bong, Sasha E - DOA
Subject: Sale of assets draft
Importance: High

Jeff – Sasha and I are going through the latest version and had two larger issues:

- 1) It doesn't look like this version (/3) is using the net proceeds language as suggested by Cap Finance – any issue there? I've attached again for your reference.
- 2) Our Secretary's Office wants to use "property" instead of "real property" in chapter 16.848 (and presumably the BC process under 13 as well) because they are aware of court cases where power plants were deemed to be "personal property" and only the land under the power plant considered to be "real property." I know that this will probably lengthen the draft with additional cross-references but is it doable? Pls call to discuss.

Thanks -- Jenny

"k" means all real w personal property attached thereto, including business prop systems, add the property interests specified by the dept / BC

Kuesel, Jeffery

From: Kraus, Jennifer - DOA <jennifer.kraus@wisconsin.gov>
Sent: Monday, February 11, 2013 10:56 AM
To: Kuesel, Jeffery
Cc: Bong, Sasha E - DOA
Subject: Sale of assets draft
Attachments: net proceeds stat language[1].docx

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Kuesel, Jeffery

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Sent: Monday, February 11, 2013 4:56 PM
To: Kraus, Jennifer - DOA
Cc: 'Bong, Sasha E - DOA'
Subject: RE: LRB-1130 (Sale of assets draft)

Jenny,

I think we have a workable solution. On the separate issue, I think we can also add some language taking care of that.

I have been through all of the language relating to disposition of proceeds and I think I now have all of it. It's pretty confusing the way it was displayed because some changes were shown in red or underscoring and striking and some were not. Let me know if you find anything that was missed.

Jeff

From: Kraus, Jennifer - DOA [<mailto:jennifer.kraus@wisconsin.gov>]
Sent: Monday, February 11, 2013 2:30 PM
To: Kuesel, Jeffery
Cc: Kraus, Jennifer - DOA; Bong, Sasha E - DOA
Subject: RE: Sale of assets draft
Importance: High

Jeff – I was able to get an answer. They would like you to add a sentence to 16,848(1e) (and corresponding section under 13.148) that specifies that for the sale or lease of state-owned heating, cooling or power plants all property (real and personal) is to be conveyed.

One separate issue came up – can you confirm that assets can be sold even if not included in the 13.48(14)(d) inventory/appraisal process? Otherwise they would like an exemption or a notwithstanding clause added to 16.848 as the timing may not be right..

Thanks - Jenny

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Sent: Monday, February 11, 2013 12:50 PM
To: Kuesel, Jeffery (Jeffery.Kuesel@legis.wisconsin.gov)
Cc: Bong, Sasha E - DOA
Subject: RE: Sale of assets draft

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Jenny

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